

Office of the Attorney General
State of LOUISIANA

Opinion No. 80-2
January 8, 1980

90-B-4 PUBLIC MEETINGS

Method of voting by persons in representative capacity. R.S. 42:5(c); R.S. 42:4.1; R.S. 42:7.1 and 42:7.1(3)

Honorable John J. Swilley
Parish Administrator
Parish of Terrebonne
P. O. Box 4035
Houma, LA. 70361

Dear Mr. Swilley:

You have requested an opinion as to an interpretation of R.S. 42:5(c) which states:

'All votes made by persons in a representative capacity shall be by viva voce and shall be recorded in the minutes.'

You inquire whether it is permissible to use electronic machines which display by use of lights how an individual representative votes as opposed to a 'Voice Vote' where each representative expresses a 'yea' or 'nay' as the case may be. You further inquire whether each individual vote of a representative must be included in the minutes.

The policy of the Open Meetings Law is that citizens be aware of the 'performance of public officials and the deliberations and decisions that go into the making of public policy.' R.S. 42:4.1. Viva Voce signifies voting by 'speech or outcry as distinguished from voting by a written or printed ballot.' See Viva Voce, Black's Law Dictionary. Literally, Viva Voce means vote by voice; however, the underlying concept of Viva Voce is one of publicity. Hence, the electronic voting machines meet the underlying concept of Viva Voce. By law no other individual other than the representative can press the switch which is then a public expression of his vote. In our opinion, this method of voting is in keeping with the letter and spirit of the Open Meetings Law. The legislative intent was to require public expression-whether it be by voice or symbolically by use of an electronic machine which displays in lighting how each representative decides to vote.

As to the recording of each and every individual representative's vote in the minutes, it should be noted again that the Open Meetings Law requires that reasonably comprehensible minutes be kept. The form and organization of the

minutes is a matter of discretion.

However, the minutes must include the date, time, and place of the meeting; the members of the public body absent or present; the substance of all matters decided and any other information requested by the public body to be included in the minutes. R.S. 42:7.1.

R.S. 42:5(c) requires inter alia, 'all votes made by persons in a representative capacity . . . shall be recorded in the minutes. (Emphasis, mine). It is our opinion that the Open Meetings Law requires a recordation of how individual members vote on an issue (which usually takes place on roll-call votes). Although the language of R.S. 42:7.1(3) states the minutes shall include 'at the request of any member, a record, by individual member, of any votes taken,' R.S. 42:12(3) states 'All laws or parts of laws in conflict herewith are hereby repealed. The latest expression of legislative will governs, and that expression is clear that all votes shall be recorded in the minutes.

We trust that we have answered your question sufficiently. If we can be of further assistance, please do not hesitate to call.

Very truly yours,

William J. Guste, Jr.
Attorney General

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1980-81 La. Op. Atty. Gen. 1, La. Atty. Gen. Op. No. 80-2,
1980 WL 115598 (La.A.G.)
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